

2-751171

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ZIM AMERICAN INTEGRATED
SHIPPING SERVICES, INC.,

08 CV 1953

Plaintiff,

- against -

CORNERSTONE MANUFACTURING
AND DISTRIBUTION, INC.,

Defendant.

CIVIL COMPLAINT
IN ADMIRALTY

FEB 27 2008
U.S.D.C. S.D.N.Y.
CASHIERS

Plaintiff ZIM AMERICAN INTEGRATED SHIPPING SERVICES, INC., by its attorneys, LAW OFFICES OF ALBERT J. AVALLONE & ASSOCIATES, as and for its Complaint against defendant CORNERSTONE MANUFACTURING AND DISTRIBUTION, INC., in personam, in a cause of action civil and maritime, alleges upon information and belief:

1. This is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure, the Ocean Shipping Reform Act of 1999, 46 U.S.C., App. Section 1701, et seq., and Paragraph 24 of the Bill of Lading.

2. At all times hereinafter mentioned, plaintiff ZIM AMERICAN INTEGRATED SHIPPING SERVICES, INC. was and still is a corporation duly organized and existing under the laws of the State of Delaware with offices and a place of business at 5801 Lake Wright Drive, Norfolk, VA 23502.

3. Upon information and belief and at all times hereinafter mentioned, defendant CORNERSTONE MANUFACTURING AND DISTRIBUTION, INC. was and still is a corporation organized and existing under the laws of the State of California, with offices and a place of business at 955 Cornerstone Way, Corona, CA 92880, with an agent for service of process, Hans Hausfeld, at the corporate address.

ZIMUWUH911187, certain goods consisting of five containers of

UNGALVANIZED STEEL SPRING WIRE were carried by plaintiff to Wuhan to Long Beach, there to be delivered to defendant and/or its agents (Exhibit A).

5. Defendant failed to remove the containers from the port within the free time allowed, and incurred demurrage costs totalling \$4,100.00 (Exhibits B1-B5).

6. On October 6, 2006, defendant issued check no. 1070 for \$4,100.00 in payment of Exhibits B1-B5, hereto, in order to obtain release of the containers, but after the containers were released, put a "Stop Payment" order on the check (Exhibit C).

7. Plaintiff has performed all duties and obligations required to be performed by plaintiff.

8. Defendant has failed and refused and continues to fail and to refuse to remit the \$4,100.00 due, although duly demanded.

9. By reason of the foregoing, plaintiff has sustained damages in the amount of \$4,100.00 which, although duly demanded, have not been paid.

WHEREFORE, plaintiff prays:

1. For judgment in the amount of plaintiff's damages, together with interest thereon from the respective dates due, costs, disbursements, and a reasonable attorney's fee.

2. That process in due form of law according to the practice of this Court in cases of admiralty and maritime jurisdiction may issue against the defendant citing it to appear and answer all the singular matters aforesaid.

3. That plaintiff have such other and further relief in the premises as in law and justice it may be entitled to receive.

Dated: New York, New York
February 26, 2008

LAW OFFICES OF
ALBERT J. AVALLONE & ASSOCIATES

By


Albert J. Avalone - AA1679
Attorneys for Plaintiff
ZIM AMERICAN INTEGRATED
SHIPPING SERVICES, INC.
551 Fifth Avenue, Suite 1625
New York, NY 10176
(212) 696-1760

POINT AND COUNTRY OF ORIGIN OF MERCHANDISE: CHINA

FURTHER REDUCED LIT. GUARANTEE'S EXPENSE WITH A&P RESPONSIBILITY

(120 PALLETS)
UNLAVANIZED STEEL SPRING WIRE
THIS SHIPMENT CONTAINS WOOD
PACKING MATERIALS
WHICH WAS PROPERLY TREATED
FUMIGATION NO: 430420206001685

[illegible]

By Agreement with the Shipper on April 15, 1985, the following terms and conditions of carriage shall apply to the goods shipped by the Shipper to the Consignee. All of the goods and items of the Shipper are subject to the terms and conditions of carriage set forth herein, which shall be incorporated into the bill of lading and the bill of lading shall be subject to the terms and conditions of carriage set forth herein.

Freight Payable At	Rate of Freight, Inc. Bill of Lading
WUHAN	3
Please Print Date of Issue	
EXHIBIT "A"	
By Agreement with the Shipper on April 15, 1985, the following terms and conditions of carriage shall apply to the goods shipped by the Shipper to the Consignee. All of the goods and items of the Shipper are subject to the terms and conditions of carriage set forth herein, which shall be incorporated into the bill of lading and the bill of lading shall be subject to the terms and conditions of carriage set forth herein.	

CHARGES OF EKG, 102/8 - CMWCH - 2' VLUSSAV ZIMUWOB11167

DETAILS	PER	AMOUNT	PREPAID	COLLECT
DESTINATION 1P		2675.00	DL	
TERMINAL		1850.00	YE	
PANAMA CANAL		360.00	DL	
PEAK SEASON CR		1675.00	DL	
FUEL ADJUSTMEN		2225.00	DL	
U.S. INTERMODAL		1135.00	DL	
DOCUMENTATION		115.00	YR	
SECURITY MANIF		25.00	DL	
INTERNATIONAL		30.00	DL	
FREIGHT		7080.00	DL	
				-----YK1965.00
				16905.00 \$US

ZIM AMERICAN INTEGRATED SHIPPING CO. INC.
5801 LAKE WRIGHT DRIVE
NORFOLK, VA 23502 757-228-1390
ATTN: CREDIT AND COLLECTIONS

Date : 06/25/2007

Invoice : DO0623307

JOHN C MCNULTY CHB Invoice Date : 10/01/2006
301 E OCEAN BLVD STE 210 Vessel/Voy : ZKG,102/E
LONG BEACH, CA 90802 CNWU11-USSAV-USCVL
ZIMUWUH911187
Container # : CLHU,202944-8

Container demurrage charges as follows :

Container arrived : 09/24/2006

Free time commenced : 09/25/2006

Container pick up : 10/10/2006

Demurrage as from : 09/30/2006 - 10/10/2006

1st Period . 5 Days @ 120.00/DAY = US\$ 500.00

2nd Period 3 Days @ 120.00/DAY = US\$ 360.00

3rd Period Days @ 0.00/DAY = US\$

4th Period Days @ 0.00/DAY US\$

GRAND TOTAL US\$ 860.00

NOTE :

PLEASE MAKE CHECK PAYABLE TO
ZIM AMERICAN INTEGRATED SHIPPING SERVICES

FOR ANY QUESTIONS CONCERNING THIS BILL,
PLEASE CONTACT NORFOLK CREDIT & COLLECTIONS

EXHIBIT "B1"

5501 LAKE WRIGHT DRIVE
NORFOLK, VA 23502 757-228-1300
ATTN: CREDIT AND COLLECTIONS

Date : 06/25/2007

Invoice : 1000623308

JOHN C MCNULTY COB Invoice Date : 10/01/2006
301 E OCEAN BLVD STE 210 Vessel/Voy : ZKG,102/E
LONG BEACH, CA 90802 CNWUH-USSAV-USCVL
ZIMUWUH911187

Container # : CLHU,206225-6

Container demurrage charges as follows :

Container arrived : 09/24/2006

Free time commenced : 09/25/2006

Container pick up : 10/10/2006

Demurrage as from : 09/30/2006 - 10/10/2006

1st Period 5 Days @ 100.00/DAY = US\$ 500.00

2nd Period 3 Days @ 120.00/DAY = US\$ 360.00

3rd Period Days @ 0.00/DAY = US\$

4th Period Days @ 0.00/DAY = US\$

GRAND TOTAL: US\$ 860.00

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EXHIBIT "B2"

ZIM AMERICAN INTEGRATED SHIPPING CO. INC.
5801 LAKE WRIGHT DRIVE
NORFOLK, VA 23502 757-228-1300
ATTN: CREDIT AND COLLECTIONS

Date : 06/25/2007

Invoice : DO0623309

JOHN C MCNEILLY CHB
361 E OCEAN BLVD STE 210
LONG BEACH, CA 90802

Invoice Date : 10/01/2006

Vessel/Voy : ZKG,102/E

CNWIH-USSAV-USCVL

ZIMUWU1911187

Container # : GSLU202790-1

Container demurrage charges as follows :

Container arrived : 09/24/2006

Free time commenced : 09/25/2006

Container pick up : 10/09/2006

Demurrage as from : 09/30/2006 - 10/09/2006

1st Period 5 Days @ 100.00/DAY = US\$ 500.00

2nd Period 2 Days @ 120.00/DAY = US\$ 240.00

3rd Period Days @ 0.00/DAY = US\$

4th Period Days @ 0.00/DAY = US\$

GRAND TOTAL US\$ 740.00

NOTE :

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EXHIBIT "B3"

ZIM AMERICAN INTEGRATED SHIPPING CO. INC.
5801 LAKE WRIGHT DRIVE
NORFOLK, VA 23502 757-228-1300
ATTN: CREDIT AND COLLECTIONS

Date : 06/25/2007

Invoice : DO0623310

JOHN C MCNULTY CHB Invoice Date : 10/01/2006
381 E OCEAN BLVD STE 210 Vessel/Voy : ZKG.102/E
LONG BEACH, CA 90802 CNWLH-USSAV USCVL
ZIMUWU11911187
Container # : GSEU,204852-4

Container demurrage charges as follows :

Container arrived : 09/24/2006

Free time commenced : 09/25/2006

Container pick up : 10/09/2006

Demurrage as from : 09/30/2006 - 10/09/2006

1st Period 5 Days @ 100.00/DAY = US\$ 500.00

2nd Period 2 Days @ 120.00/DAY = US\$ 240.00

3rd Period Days @ 0.00/DAY = US\$

4th Period Days @ 0.00/DAY = US\$

GRAND TOTAL US\$ 740.00

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EXHIBIT "B4"

3801 LAKE WRIGHT DRIVE
NORFOLK, VA 23502 757-228-1300
ATTN: CREDIT AND COLLECTIONS

Date : 06/25/2007

Invoice : 000623311

JOHN C MCNULTY CHB Invoice Date : 10/01/2006
301 E OCEAN BLVD STE 210 Vessel/Voy : ZKG,102/E
LONG BEACH, CA 90802 CNWUH-USSAV-USCVL
ZIMUWUH911187
Container # : TTNU,293855-6

Container demurrage charges as follows :

Container arrived : 09/24/2006

Free time commenced : 09/25/2006

Container pick up : 10/10/2006

Demurrage as from : 09/30/2006 - 10/10/2006

1st Period 5 Days @ 100.00/DAY = US\$ 500.00

2nd Period 3 Days @ 120.00/DAY = US\$ 360.00

3rd Period Days @ 0.00/DAY = US\$

4th Period Days @ 0.00/DAY = US\$

GRAND TOTAL US\$ 860.00

NOTE :

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EXHIBIT "B5"

